

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2951.03US02

Katrina L. Dewar

Confirmation No.: 3786

Patent No.: 7,606,778

Application No.: 09/878,245

Issued: October 20, 2009

Filed: June 12, 2001

For: COMPUTER-IMPLEMENTED SYSTEM FOR HUMAN RESOURCES  
MANAGEMENT

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PETITION UNDER 37 C.F.R. § 1.705(d)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. Applicant hereby petitions under 37 CFR § 1.705(d) that the patent term adjustment for U.S. Patent No. 7,606,778 be changed from 1065 days to 1848 days, or, alternatively, to 1178 days, in accordance with the requirements of justice.

STATEMENT OF FACTS

2. On September 30, 2008, the United States District Court for the District of Columbia rendered a decision that refuted the USPTO's method for calculating patent term adjustment as inconsistent with 35 USC § 154(b) and set forth the proper method of

calculation in Wyeth et al. v. Dudas, Civ. Action No. 1:07-cv-01492-JR. (See Wyeth et al. v. Dudas, 580 F. Supp. 2d 138 (D.D.C. 2008) attached hereto as Attachment A).

3. Specifically, in Wyeth, the court found that the United States Patent and Trademark Office (USPTO) has been misapplying 35 U.S.C. § 154(b)(2)(A) when calculating patent term adjustment, thereby routinely denying some applicants patent term to which they are entitled under the statute.
4. The USPTO had published and implemented its interpretation of 35 U.S.C. 154(b)(2)(A) stating that the statute means “that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B), the entire period during which the application was pending before the office (except for periods excluded under 35 U.S.C. § 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. § 154(b)(1)(B) in determining whether periods of delay “overlap” under 35 U.S.C. 154(b)(2)(A).” 69 Fed. Reg. 21706 (April 22, 2004).
5. In Wyeth, the court found the USPTO interpretation of 35 U.S.C. 154(b)(2)(A) does not square with the language of the statute and that the USPTO should not consider an application delayed under 154(b)(1)(B) during the period before it has been delayed and that the delay under section (B) begins when the PTO has failed to issue a patent within three years, not before. See Wyeth, 580 F. Supp. 2d at 142.

6. U.S. Patent No. 7,606,778 (“the ‘778 Patent”) issued to inventor Katrina L. Dewar on October 20, 2009. The ‘778 patent is attached as Attachment B.
7. The Notice of Allowance for the ‘778 patent was issued June 25, 2009 and indicated a patent term adjustment of 1063 days. See Attachment C.
8. Along with the issue fee payment on July 16, 2009, Applicant submitted a Patent Term Adjustment Letter of Candor and Faith. This letter informed the Patent Office of adjustments that Applicant believed appropriate to the reported PTA of 1063 days. Specifically, Applicant believed the reported PTA was at least 77 days longer than appropriate due to the filing of Supplemental Amendments received by the Office on April 7, 2006 and June 17, 2009. In addition, Applicant informed the PTO that a reduction of 117 days may have been appropriate under 37 C.F.R. § 1.704(c)(7) due to a non-compliant appeal brief submitted by applicant on October 18, 2006 and that the Applicant’ award of 120 days for the PTO failing to respond to a compliant appeal brief should be reduced to 6 days. See Attachment D.
9. The Office of Petitions responded to Applicant’s July 16, 2009 letter on September 8, 2009. The Office adjusted the patent term by reducing the 120 day award relating to the appeal brief to 6 days, changed the reduction under 37 C.F.R. 1.704(b) to 70 days, and changed the reduction under 37 C.F.R. § 1.704(c)(8) to 7 days. The response did not

mention the potential 117 day reduction under 37 C.F.R. § 1.704(c)(7) that Applicant brought to the Office's attention. See Attachment E.

10. The final determination of patent term adjustment, as determined by the USPTO under 35 USC § 154(b), and listed on the face of the '778 patent is 1065 days. This patent is not subject to a terminal disclaimer.
11. The USPTO's determination of 1065 days of patent term adjustment is in error in that, pursuant to 35 USC § 154(b)(1)(B), the USPTO failed to properly allow an adjustment for the time exceeding three years after the actual filing date of the '778 patent to its date of issue. See Attachment F comprising a hardcopy of the USPTO PTA calculation from the PAIR system.
12. The '778 patent was filed on June 12, 2001, and issued on October 20, 2009. See Attachment B.
13. Under 35 USC § 154(b)(1)(A), Applicant is entitled to an adjustment of the term of the '778 patent for a period of 1148 days, which is the number of days attributable to PTO examination delay ("A Delay").

14. Under 35 USC § 154(b)(1)(B), Applicant is entitled to an additional adjustment of the term of the '778 patent for a period of 1454 days, which is the number of days the issue date of the '778 patent exceeds three years from the filing date of the application not including any time consumed by continued examination of the application requested by the applicant under section 132(b). ("B Delay").
15. Section 35 USC § 154(b)(2)(A) states that "to the extent...periods of delay attributable to grounds specified in paragraph [154(b)(1)] overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed." For the '778 patent, 478 days of the A Delay overlaps with the B Delay period. Therefore, there are 478 overlap days to be excluded for the patent term adjustment.
16. The total period of PTO delay is 2124 days, which is the sum of the A Delay (1148 days) and B Delay (1454 days) minus the period of overlap (478 days).
17. Under 35 USC §154(b)(2)(C), the total period of PTO delay is reduced by the period of applicant delay, which is 276 days as determined by the USPTO. See Attachment F. This delay results from Applicant filings made on January 27, 2006, April 7, 2006, August 18, 2006, November 19, 2007, June 6, 2008, December 22, 2008, and June 17, 2009.

18. Therefore, the correct patent term adjustment under 35 USC § 154(b)(1) and (2) is 1848 days, the difference between the total period of PTO delay (2124 days) and the period of applicant delay (276 days).
19. Even if the Office were to choose not to calculate Applicant's patent term in accordance with Wyeth, referenced above, Applicant believes there was an error in calculating the patent term under the actual delay limitation utilizing the Office's previous methodology that was refuted in Wyeth.
20. The Office's calculation indicates the Applicant was credited with 193 days of PTA based upon Office's interpretation of the three year rule. See Attachment F. However, Applicant believes that 306 days of PTA should be awarded using the PTO's methodology. This is determined by taking 1454 days between 3 years after the date on which the application was filed and the issue date of the '778 patent and subtracting the 1148 net credit days.
21. When using the Office's previous methodology, the total PTA awarded Applicant should be 1178 days, which is the sum of the A Delay (1148 days) and B Delay (306 days) minus the period of overlap (0 days) and the period of Applicant delay (276 days).
22. Under the interpretation of the overlap provision set forth in Wyeth, Applicant should be awarded 1848 days of PTA. However, if the Office chooses not to follow the overlap

interpretation of Wyeth, the PTA awarded to Applicant should still be increased, to 1148 days.

23. The Applicant's credit of only 1065 days of patent term adjustment for the '778 patent is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and in excess of statutory jurisdiction, authority or limitation.
24. Accordingly, Applicant and the undersigned respectfully submit that justice requires that the patent term adjustment credited U.S. Patent No. 7,606,778 be changed from 1065 days to 1848 days, or, alternatively, to 1178 days.

Respectfully submitted,



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*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*

# ATTACHMENT A



580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538  
(Cite as: 580 F.Supp.2d 138)

**C**

United States District Court,  
District of Columbia.

**WYETH, et al.,** Plaintiffs,

v.

Jon W. DUDAS, Under Secretary of Commerce for  
Intellectual Property and Director of U.S. Patent and  
Trademark Office, Defendant.

**Civil Action No. 07-1492 (JR).**

Sept. 30, 2008.

**Background:** Patent owners brought action challenging method used by Patent and Trademark Office (PTO) to calculate extensions of patent terms for certain specified kinds of PTO delay.

**Holding:** The District Court, James Robertson, J., held that extension of patent term based on PTO delay could exceed three years.

Ordered accordingly.

West Headnotes

**[1] Patents 291 ⇌ 133**

291 Patents

291V1 Term

291k133 k. Extension. Most Cited Cases

Patent and Trademark Office's (PTO) interpretation of statute providing extensions of patent terms for certain specified kinds of PTO delay was not entitled to *Chevron* deference. 35 U.S.C.A. § 154(b)(2)(C)(iii), (b)(3)(A).

**[2] Patents 291 ⇌ 133**

291 Patents

291V1 Term

291k133 k. Extension. Most Cited Cases

Extension of patent term for any administrative delay by Patent and Trademark Office (PTO) in issuing patent more than three years after filing date did not

necessarily overlap with extensions provided as result of PTO's failure to comply with enumerated statutory deadlines, and thus statutory prohibition against double-counting did not preclude patent applicants from claiming extensions in excess of three years. 35 U.S.C.A. § 154(b).

**\*138** David O. Bickart, Kaye Scholer LLP, Washington, DC, Patricia A. Carson, Kaye Scholer LLP, New York, NY, for Plaintiffs.

Fred Elmore Haynes, U.S. Attorney's Office, Washington, DC, for Defendant.

**\*139 MEMORANDUM OPINION**

JAMES ROBERTSON, District Judge.

Plaintiffs here take issue with the interpretation that the United States Patent and Trademark Office (PTO) has imposed upon 35 U.S.C. § 154, the statute that prescribes patent terms. Section 154(a)(2) establishes a term of 20 years from the day on which a successful patent application is first filed. Because the clock begins to run on this filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate the damage that bureaucracy can do to inventors, the statute grants extensions of patent terms for certain specified kinds of PTO delay, 35 U.S.C. § 154(b)(1)(A), and, regardless of the reason, whenever the patent prosecution takes more than three years. 35 U.S.C. § 154(b)(1)(B). Recognizing that the protection provided by these separate guarantees might overlap, Congress has forbidden double-counting: "To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed." 35 U.S.C. § 154(b)(2)(A). Plaintiffs claim that the PTO has misconstrued or misapplied this provision, and that the PTO is denying them a portion of the term Congress has provided for the protection of their intellectual property rights.

**Statutory Scheme**

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(Cite as: 580 F.Supp.2d 138)

Until 1994, patent terms were 17 years from the date of issuance. See 35 U.S.C. § 154 (1992) ("Every patent shall contain ... a grant ... for the term of seventeen years ... of the right to exclude others from making, using, or selling the invention throughout the United States...."). In 1994, in order to comply with treaty obligations under the General Agreement on Tariffs and Trade (GATT), the statute was amended to provide a 20-year term from the date on which the application is first filed. See Pub.L. No. 103-465, § 532, 108 Stat. 4809, 4984 (1994). In 1999, concerned that extended prosecution delays could deny inventors substantial portions of their effective patent terms under the new regime, Congress enacted the American Inventors Protection Act, a portion of which referred to as the Patent Term Guarantee Act of 1999-provided for the adjustments that are at issue in this case. Pub.L. No. 106-113, §§ 4401-4402, 113 Stat. 1501, 1501A-557 (1999).

As currently codified, 35 U.S.C. § 154(b) provides three guarantees of patent term, two of which are at issue here. The first is found in subsection (b)(1)(A), the "[g]uarantee of prompt Patent and Trademark Office response." It provides a one-day extension of patent term for every day that issuance of a patent is delayed by a failure of the PTO to comply with various enumerated statutory deadlines: fourteen months for a first office action; four months to respond to a reply; four months to issue a patent after the fee is paid; and the like. See 35 U.S.C. § 154(b)(1)(A)(i)-(iv). Periods of delay that fit under this provision are called "A delays" or "A periods." The second provision is the "[g]uarantee of no more than 3-year application pendency." Under this provision, a one-day term extension is granted for every day greater than three years after the filing date that it takes for the patent to issue, regardless of whether the delay is the fault of the PTO.<sup>FN1</sup> See 14035 U.S.C. § 154(b)(1)(B). The period that begins after the three-year window has closed is referred to as the "B delay" or the "B period." ("C delays," delays resulting from interferences, secrecy orders, and appeals, are similarly treated but were not involved in the patent applications underlying this suit.)

<sup>FN1</sup>. Certain reasons for exceeding the three-year pendency period are excluded, see 35 U.S.C. § 154(b)(1)(b)(i)-(iii), as are pe-

riods attributable to the applicant's own delay. See 35 U.S.C. § 154(b)(2)(C).

The extensions granted for A, B, and C delays are subject to the following limitation:

**(A) In general.**-To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

35 U.S.C. § 154(b)(2)(A). This provision is manifestly intended to prevent double-counting of periods of delay, but understanding that intent does not answer the question of what is double-counting and what is not. Proper interpretation of this proscription against windfall extensions requires an assessment of what it means for "periods of delay" to "overlap."

The PTO, pursuant to its power under 35 U.S.C. § 154(b)(3)(A) to "prescribe regulations establishing procedures for the application for and determination of patent term adjustments," has issued final rules and an "explanation" of the rules, setting forth its authoritative construction of the double-counting provision. The rules that the PTO has promulgated essentially parrot the statutory text, see 37 C.F.R. § 1.703(f), and so the real interpretive act is found in something the PTO calls its Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. § 154(b)(2)(A), which was published on June 21, 2004, at 69 Fed.Reg. 34238. Here, the PTO "explained" that:

the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. § 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. § 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

69 Fed.Reg. 34238 (2004) (emphasis added). In short, the PTO's view is that any administrative delay under § 154(b)(1)(A) overlaps any 3-year maximum pen-

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gency delay under § 154(b)(1)(B): the applicant gets credit for “A delay” or for “B delay,” whichever is larger, but never A + B.

In the plaintiffs’ submission, this interpretation does not square with the language of the statute. They argue that the “A period” and “B period” overlap only if they occur on the same calendar day or days. Consider this example, proffered by plaintiff: A patent application is filed on 1/1/02. The patent issues on 1/1/08, six years later. In that six-year period are two “A periods,” each one year long: (1) the 14-month deadline for first office action is 3/1/03, but the first office action does not occur until 3/1/04, one year late; (2) the 4-month deadline for patent issuance after payment of the issuance fee is 1/1/07, but the patent does not issue until 1/1/08, another year of delay attributable to the PTO. According to plaintiff, the “B period” begins running on 1/1/05, three years after the patent application was filed, and ends three years later, with the issuance of the patent on 1/1/08. In this \*141 example, then, the first “A period” does not overlap the “B period,” because it occurs in 2003-04, not in 2005-07. The second “A period,” which covers 365 of the same days covered by the “B period,” does overlap. Thus, in plaintiffs’ submission, this patent holder is entitled to four years of adjustment (one year of “A period” delay + three years of “B period” delay). But in the PTO’s view, since “the entire period during which the application was pending before the office” is considered to be “B period” for purposes of identifying “overlap,” the patent holder gets only three years of adjustment.

### ***Chevron* Deference**

We must first decide whether the PTO’s interpretation is entitled to deference under *Chevron v. NRDC*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). No, the plaintiffs argue, because, under the Supreme Court’s holdings in *Gonzales v. Oregon*, 546 U.S. 243, 126 S.Ct. 904, 163 L.Ed.2d 748 (2006), and *United States v. Mead Corp.*, 533 U.S. 218, 121 S.Ct. 2164, 150 L.Ed.2d 292 (2001), Congress has not “delegated authority to the agency generally to make rules carrying the force of law,” and in any case the interpretation at issue here was not promulgated pursuant to any such authority. See *Gonzales*, 546 U.S. at 255-56, 126 S.Ct. 904, citing *Mead*, 533 U.S. at 226-27, 121 S.Ct. 2164. Since at least 1996, the Federal Circuit has held that the PTO is not afforded *Chevron* deference

because it does not have the authority to issue substantive rules, only procedural regulations regarding the conduct of proceedings before the agency. See *Merck & Co. v. Kessler*, 80 F.3d 1543, 1549-50 (Fed.Cir.1996).

[1] Here, as in *Merck*, the authority of the PTO is limited to prescribing “regulations establishing procedures for the application for and determination of patent term adjustments under this subsection.” 35 U.S.C. § 154(b)(3)(A) (emphasis added). Indeed, a comparison of this rulemaking authority with the authority conferred for a different purpose in the immediately preceding section of the statute makes it clear that the PTO’s authority to interpret the overlap provision is quite limited. In 35 U.S.C. § 154(b)(2)(C)(iii) the PTO is given the power to “prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application” (emphasis added)—that is, the power to elaborate on the meaning of a particular statutory term. No such power is granted under § 154(b)(3)(A). *Chevron* deference does not apply to the interpretation at issue here.

### **Statutory Construction**

*Chevron* would not save the PTO’s interpretation, however, because it cannot be reconciled with the plain text of the statute. If the statutory text is not ambiguous enough to permit the construction that the agency urges, that construction fails at *Chevron*’s “step one,” without regard to whether it is a reasonable attempt to reach a result that Congress might have intended. See, e.g., *MCI v. AT & T*, 512 U.S. 218, 229, 114 S.Ct. 2223, 129 L.Ed.2d 182 (1994) (“[A]n agency’s interpretation of a statute is not entitled to deference when it goes beyond the meaning that the statute can bear.”).

The operative question under 35 U.S.C. § 154(b)(2)(A) is whether “periods of delay attributable to grounds specified in paragraph (1) overlap.” The only way that periods of time can “overlap” is if they occur on the same day. If an “A delay” occurs on one calendar day and a “B delay” occurs on another, they do not overlap, and § 154(b)(2)(A) does not limit the extension to one day. Recognizing this, \*142 the PTO defends its interpretation as essentially running the

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"period of delay" under subsection (B) from the filing date of the patent application, such that a period of "B delay" *always overlaps* with any periods of "A delay" for the purposes of applying § 154(b)(2)(A).

[2] The problem with the PTO's construction is that it considers the application *delayed* under § 154(b)(1)(B) during the period *before it has been delayed*. That construction cannot be squared with the language of § 154(b)(1)(B), which applies "if the issue of an original patent is *delayed* due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years." (Emphasis added.) "B delay" begins when the PTO has failed to issue a patent within three years, not before.

The PTO's interpretation appears to be driven by Congress's admonition that any term extension "not exceed the actual number of days the issuance of the patent was delayed," and by the PTO's view that "A delays" during the first three years of an applications' pendency inevitably lead to "B delays" in later years. Thus, as the PTO sees it, if plaintiffs' construction is adopted, one cause of delay will be counted twice: once because the PTO has failed to meet and administrative deadline, and again because that failure has pushed back the entire processing of the application into the "B period." Indeed, in the example set forth above, plaintiffs' calendar-day construction does result in a total effective patent term of 18 years under the (B) guarantee, so that-again from the PTO's viewpoint-the applicant is not "compensated" for the PTO's administrative delay, he is benefitted by it.

But if subsection (B) had been intended to guarantee a 17-year patent term and *no more*, it could easily have been written that way. It is true that the legislative context-as distinct from the legislative history-suggests that Congress may have intended to use subsection (B) to guarantee the 17-year term provided before GATT. But it chose to write a "[g]uarantee of no more than 3-year application pendency," 35 U.S.C. § 154(b)(1)(B), not merely a guarantee of 17 effective years of patent term, and do so using language separating that guarantee from a different promise of prompt administration in subsection (A). The PTO's efforts to prevent windfall extensions may be reasonable-they may even be consistent with Congress's intent-but its interpretation must square with Congress's words. If the outcome commanded by that text

is an unintended result, the problem is for Congress to remedy, not the agency.

D.D.C., 2008.  
 Wyeth v. Dudas  
 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538

END OF DOCUMENT

# ATTACHMENT B



US007606778B2

**(12) United States Patent**  
**Dewar****(10) Patent No.: US 7,606,778 B2**  
**(45) Date of Patent: Oct. 20, 2009****(54) ELECTRONIC PREDICATION SYSTEM FOR ASSESSING A SUITABILITY OF JOB APPLICANTS FOR AN EMPLOYER****(75) Inventor: Katrina L Dewar, Plymouth, MN (US)****(73) Assignee: Previsor, Inc., Roswell, GA (US)****(\*) Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1065 days.

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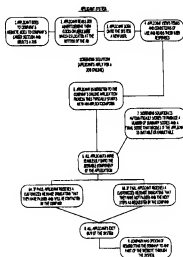
*Primary Examiner*—David R Vincent  
*Assistant Examiner*—Lut Wong  
 (74) *Attorney, Agent, or Firm*—Patterson, Thuent, Skaar & Christensen, P.A.

**(21) Appl. No.: 09/878,245****(22) Filed: Jun. 12, 2001****(65) Prior Publication Data**  
US 2002/0055866 A1 May 9, 2002**Related U.S. Application Data****(60)** Provisional application No. 60/211,044, filed on Jun. 12, 2000.**(51) Int. Cl.**  
**G06G 7/00 (2006.01)****(52) U.S. Cl.** ..... **706/21; 706/45; 706/46; 705/11****(58) Field of Classification Search** ..... **706/14, 706/21, 45, 46; 707/102; 705/11**  
See application file for complete search history.**(56) References Cited****U.S. PATENT DOCUMENTS**

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**(57) ABSTRACT**

A system and method for testing and/or evaluating employees or potential employees is disclosed. A computer arranges a plurality of applicants in a stack ranked table. The table may rank or re-rank applicants against each other, from best to worst, after successive screening, selecting, and/or interviewing stages for a particular job. Performance evaluations of hired workers may be fed back to the computer for adjusting the system and method. Competencies shown to be predictive of successful performance of a given type of job are tested for at various stages in an online testing system.

**3 Claims, 11 Drawing Sheets**

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\* cited by examiner

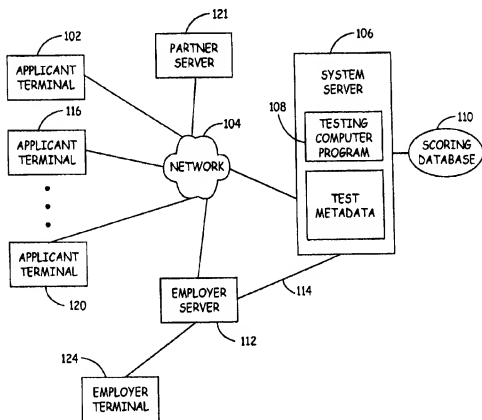


FIG. 1

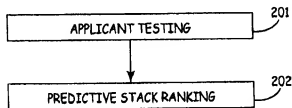


FIG. 2

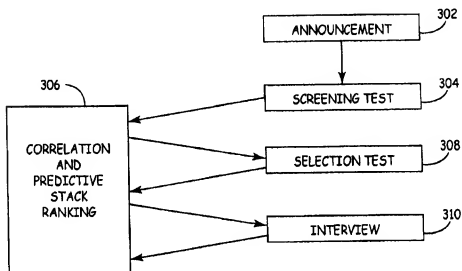


FIG. 3

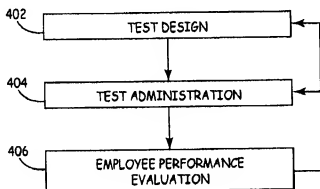
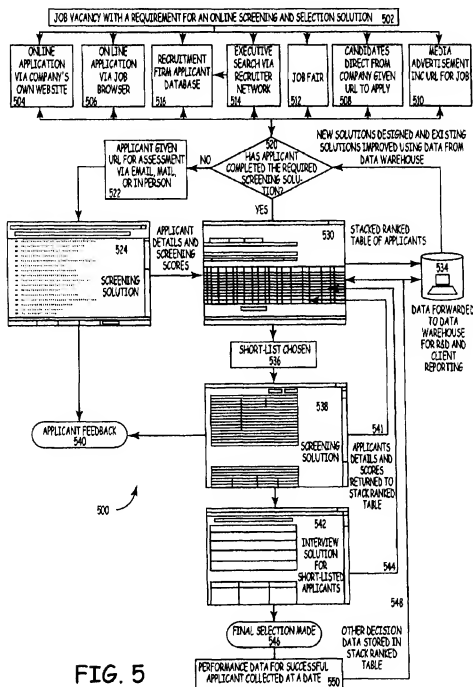


FIG. 4



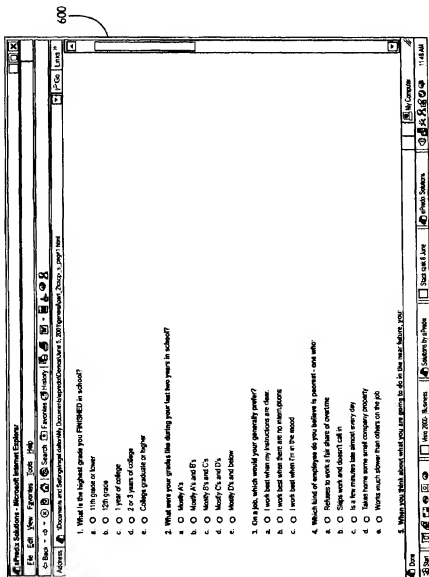


FIG. 6

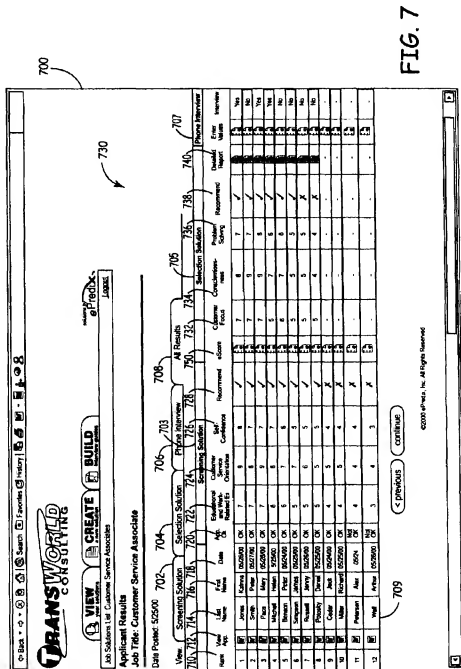


FIG. 7



800

802

804

Time Remaining: 00:00

☐ Back ☐ Home ☐ Search ☐ Favorites ☐ History ☐ Help ☐ Print ☐

Customer Contact	
Name: Mary Q. Rude	Today's Date: 5/6/2001
Address: 18 E. Pine Avenue	Account Number: 1234567
	Telephone: 1-313-445-7878
Date: 5/6/2001	Name: Mary Q. Rude
5/2/2000 Jan	17. AR 30
5/2/2000 Feb	17. AR 30
5/17/2000 Mar	CC, 17. AR, 30
5/22/2000 May	CC, AR, 17. AR, 30
5/22/2000 May	17. AR, 45
5/6/2000 June	CC, 17. AR, 30
5/11/2000 July	CC, 17. AR, 30
More Codes:	
17. 1st payment due date	AR. account past due customer call
AR. account balance inquiry	22. unreturned merchandise call
17. 1st time payment value	45. telephone
CC. account closing	55. customer change of address
CC. account past due	55. value call
CC. customer past due	55. customer requested suspension
55. customer will make payment in 5 days	

1. What is the total number of requests for account balance?

☐ 0  
☐ 1  
☐ 2  
☐ 3  
☐ 4

RETAIL CUSTOMER PROMOTIONS INQUIRY	
Name: Mary Q. Rude	Today's Date: 5/6/2001
Address: 18 E. Pine Avenue	Account Number: 1234567
Phone: 1-313-445-7878	Starting Date: 5/6/2001
Terms for Double Cash-Back Discount:	
Length of Program: 90 days	Length of program: 90 days
Minimum required purchase: \$50.00	Minimum required purchase: \$50.00
Maximum discount rate: 5%	Maximum discount rate: 5%

FIG. 8

[illegible]

FIG. 9

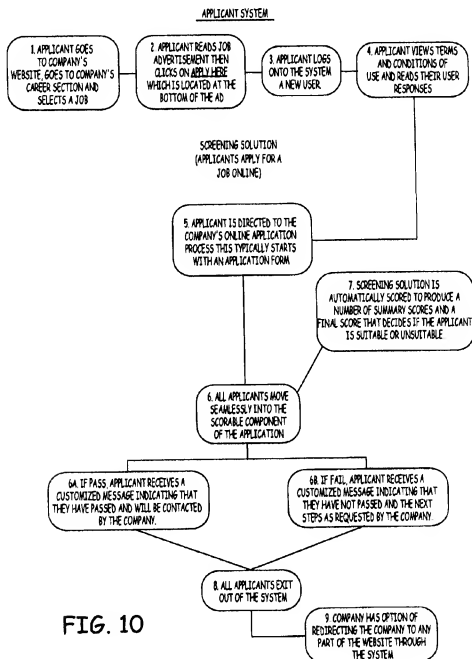


FIG. 10

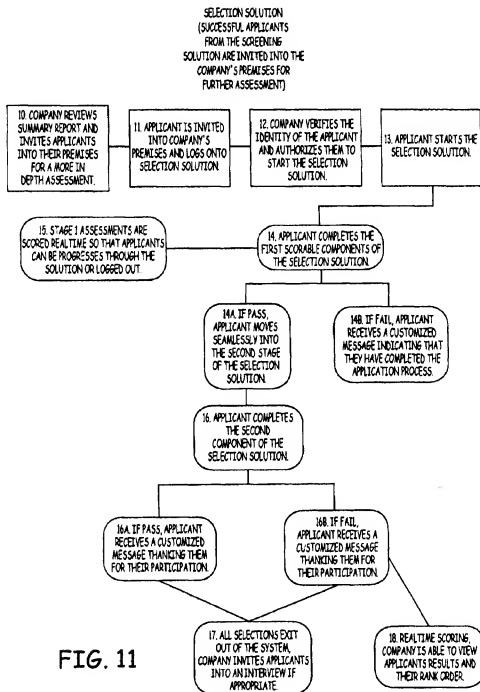


FIG. 11

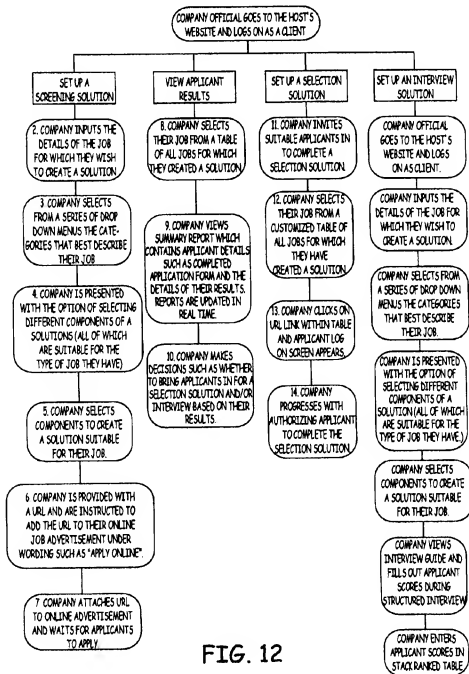


FIG. 12

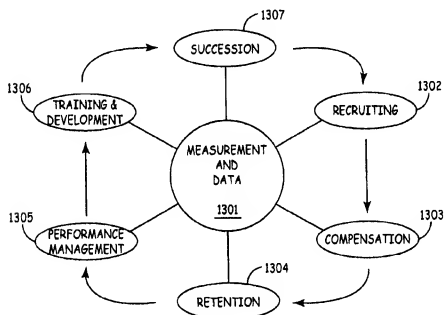


FIG. 13

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# ELECTRONIC PREDICTION SYSTEM FOR ASSESSING A SUITABILITY OF JOB APPLICANTS FOR AN EMPLOYER

## RELATED APPLICATION

This application claims the benefit of U.S. Provisional Patent Application No. 60/211,044, filed Jun. 12, 2000.

## BACKGROUND OF THE INVENTION

To prevent discrimination in job hiring and promotion, in 1978 the U.S. Federal Government established rigorous standards known as the "Uniform Guidelines" for the use of testing and screening instruments used to distinguish among candidates for a given position. (41 CFR §§ 60-3). These standards are designed to prevent testing and screening instruments from creating an adverse impact on any minority or protected groups during the hiring or promotion of employees.

Over the last twenty years, a number of test booklets have been developed and published by various publishers in compliance with the "Uniform Guidelines." One example is the Customer Service & Clerical Potential Inventory ("CSCPI") developed by Richardson, Bellows, Henry and Co., Inc. The CSCPI is unlike most other tests in that responses are not right or wrong in the traditional sense. Instead, the performance of the group picking each individual item alternative have been statistically correlated across large samples of potential and actual employees for a position so as to create a test that can produce a total score for that position. This total score may legally be used as a factor in the hiring or promotion process.

With the advances in computer systems and the advent of the Internet, many different aspects of human resources management have been computerized, including online recruiting. In large part due to the rigorous standards imposed by the "Uniform Guidelines," such online recruiting systems use only certain minimum candidate qualifications (e.g., college level degree, possesses a driver's license, number of years experience for a skill) as a way of identifying potential candidates for a position. It has generally been accepted in the human resources profession that choosing among potential candidates based only on minimum candidate qualifications will not run afoul of the rigorous standards imposed by the "Uniform Guidelines".

Accordingly, it would be desirable to provide a computer-implemented system for human resources management that could overcome these limitations and provide further advantages in the testing and/or evaluating employees or potential employees.

## SUMMARY OF THE INVENTION

The present invention is an electronic prediction system for assessing a suitability of job applicants for an employer. The electronic prediction system includes a plurality of terminals connected to the Internet, an applicant screening server connected through the Internet to the terminals that has a testing computer program that stores test data. A website identified is configured to present application questions to the applicants at the terminals and to receive applicant responses entered at the terminals in response to presentation of the application questions. The application questions include requirements questions eliciting information on whether the applicants meet employment requirements and a set of validated questions validated by correlating job performance ratings of a plurality of hired workers with previous responses given by

2

the workers to the application questions before the workers were hired. The set of validated questions is a short subset of a large assessment selected to serve as a fast job-related pre-screen. A scoring system automatically scores the applicant responses in real time. The scoring system compares the applicant responses for requirements questions to employer requirements and being validated to predict both performance and turnover potential. A scoring database is connected to the applicant screening server. An applicant input system located on the employer's premises is configured to administer an in-depth assessment to an applicant at the employer's premises after the applicant has come to the employer's premises and logged on. A viewing system permits the employer to view applicant results from the electronic prediction system and the applicant's rank order, the applicant results providing information on applicants who have a high probability of performing successfully and not terminating early

## BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 provides a block diagram of an exemplary system in accordance with the present invention.

FIG. 2 illustrates a process for testing and evaluating job applicants in accordance with an embodiment of the present invention.

FIG. 3 depicts a hiring procedure in accordance with one embodiment of the invention.

FIG. 4 is a block diagram of a process employing feedback.

FIG. 5 diagrams an online system in accordance with one embodiment of the invention.

FIG. 6 shows an example of a web-based presentation for a screening solution.

FIG. 7 shows an example of a stack ranked table.

FIG. 8 shows an example of a screening solution question presented to an applicant taking a screening solution test over the Internet.

FIG. 9 shows an example of a structured interview guide for use in an interview solution.

FIG. 10 illustrates procedural steps that may be followed in a web-based applicant system according to an embodiment of the present invention.

FIG. 11 illustrates procedural steps that may be followed in a web-based selection solution according to an embodiment of the present invention.

FIG. 12 illustrates procedural steps that may be followed by an employer according to an embodiment of the present invention.

FIG. 13 illustrates a human capital management life-cycle.

## DETAILED DESCRIPTION OF THE DRAWINGS

A system for testing a job applicant provides a computerized stack ranking of multiple applicants, predictive of the comparative levels of successful job performance. The predictive stack ranking may be used as a dynamic interactive filter with a pool of applicants over the course of the evaluation or employment process. The system may utilize a communications network to communicate between an applicant terminal and a system server.

The system may be used for example for screening, selecting, retaining, assigning, or analyzing the job applicant. The job applicant can for example be a new job applicant, an employee seeking to retain a job, an employee seeking a different job in the same organization, or an employee being evaluated for retention, re-assignment, or promotion. Applicants may or may not know they are being evaluated,

Once an applicant becomes an employee, the system may collect data regarding the employee for use in a feedback loop informing the online hiring process and improving the accuracy of the predictive stack ranking. For example, the data may indicate the employer's rating of the employee's actual job performance. Such a rating can be cross-checked against the answers that the employee gave during the application process. The cross-checking can be used as feedback to refine the questions and evaluation criteria used at each stage of the hiring process. For example, the cross-checking may be analyzed to select from among many questions, a small subset having high predictive value. The small subset can then be used in a quick initial screening stage. Or, the small subset can be given greater weight than other questions in a computerized stack ranking of candidates.

FIG. 1 provides a block diagram of an exemplary system in accordance with the present invention. A job applicant can use applicant terminal 102 to communicate over network 104 with system server 106. Applicant terminal 102 may for example be a telephone handset, a personal computer, a workstation, a handheld wireless device such as those marketed under the trademarks PALM or HANDSPRING, or a Wireless Application Protocol enabled device such as a mobile phone. Network 104 may for example be the Internet, the World Wide Web, a wide area network, a local area network, a telephone network, a wireless communication network, a combination thereof, or any other link capable of carrying communications between an applicant terminal and a server.

System server 106 employs a testing computer program 108 and has access to a scoring database 110. System server 106 communicates with applicant terminal 102 in accordance with instructions from testing computer program 108. System server 106 may communicate with employer server 112 over network 104 or over direct link 114. System server 106 is shown as a unitary server, but may be a distributed computing platform.

An applicant terminal may be remote from, or co-located with, system server 106 and/or employer server 112. For example, applicant terminal 102 may be located at a job applicant's home, applicant terminal 116 may be located at a job fair or employment office, and applicant terminal 120 may be located at an employer's location.

Partner server 121 may be linked to network 104 and system server 106 to facilitate integration of a business partner seeking to participate in the system of FIG. 1.

System server 106 may pose questions to a job applicant located at an applicant terminal, receive responses from the job applicant, and score the answers in accordance with scoring database 110. The scoring may take place in real time, i.e., while the applicant is still online, and may be reported in the form of a comparative stack ranking of multiple applicants. The stack ranking may be delivered from system server 106, over either network 104 or direct link 114, to employer server 112.

Scoring of each answer by system server 106 may be instant, i.e., before the next question is answered. Thus, adaptive testing techniques may be implemented over network 104. For example, the answers given by an applicant at applicant terminal 102 to questions propounded early in a test may determine which questions are propounded by system server 106 to the applicant later in the same test. In addition, if an applicant at terminal 102 provides an unacceptable answer to a disqualifying "knock-out" question, server 106 may immediately terminate the test.

These same adaptive testing principles may be applied to a software program used to support a real time interview, either in person or over a communications network. For example, an

employer conducting an oral interview in person or over a telephone can enter a candidate's oral answer into employer terminal 124, which then communicates the answer to system server 106, which in turn suggests via employer terminal 124 the next question for the employer to ask the interviewee.

The system may test an online applicant for any competency desired in any sequence. The tested competencies may be abilities, traits, knowledge, skills, etc., that have been proven relevant to and predictive of successful job performance. By way of example and not limitation, the following competencies may be tested:

1. dependability
2. agreeableness
3. critical thinking
4. problem solving ability
5. talkativeness
6. assertiveness
7. gregariousness
8. persuasiveness
9. achievement
10. education
11. experience
12. customer service orientation
13. customer focus
14. conscientiousness
15. self-confidence
16. motivation
17. revenue focus
18. cognitive ability
19. leadership
20. decision making
21. flexibility
22. commitment
23. learning ability
24. dedication
25. tenacity
26. number of jobs held
27. length of time in job(s)
28. working with information
29. supervisory potential
30. judgment
31. leadership
32. coaching skills
33. teamwork
34. interpersonal skills
35. business leadership
36. leadership motivation
37. self-leadership
38. interpersonal leadership
39. communication skills
40. management potential
41. likelihood of retention
42. self-control
43. energy
44. executive potential
45. listening orientation
46. language skills (English, etc.)
47. verbal reasoning
48. spatial ability
49. interest
50. motivation

Typically, system server 106 tests for certain ones of the competencies that have been proven to be predictive of successful performance of the type of job for which the applicant is being considered. The results of the testing are tabulated in a stack ranked table. The stack ranked table may rank a number of applicants against each other and list them in order,



from first to last. The table may also present other information for each applicant. The other information may include, by way of example and not limitation:

1. Name
2. Identifying number (e.g. social security number).
3. Score achieved at various stages for various competencies.
4. Recommendation (or not) to continue the hiring process beyond each stage
5. Link to application information (e.g. address, resume details)
6. Contact information (phone number, e-mail address, mailing address, etc.)
7. Date of application
8. Success or failure in complying with knockout requirements for the job
9. Screening solution scores, presented as percentiles
10. A calculated recommendation to proceed or not to proceed with the applicant
11. Results (by competency) of the selection solution
12. Link to allow manual entry of the test answers if not done on computer directly by the applicant
13. A calculated recommendation to hire or not hire based on a weighted overall score of selection competencies (or other factors the hiring company wishes to use and that are approved as statistically valid and legally defensible)
14. Additional columns for storage of data from a structured behavioral interview
15. Additional columns for storage of data from other decision-making processes such as drug testing, reference checks, or medical exams.

A process for testing and evaluating job applicants may be described with reference to FIG. 2. Generally, applicant testing 201 includes providing a test to a job applicant and scoring the applicant's answers. The test may be administered online or it may be administered manually off-line. Scores are entered into a system for calculating a stack ranked table. Predictive stack ranking 202 generally includes ranking a job applicant against other job applicants in order from first to last or other comparative ranking. The other job applicants may be current job applicants, past job applicants, or fictional job applicants.

FIG. 3 depicts a hiring procedure in accordance with one embodiment of the invention. Announcement 302 may be an online job announcement such as a web page with an "apply now" hyperlink. The web page may reside on an employer's website or an employment agency website, for example. Or, an online job announcement may be a recorded announcement on a menu-driven telephone voice processing system. Alternatively, announcement 302 may be an offline job announcement such as a newspaper advertisement.

In response to announcement 302, an interested job applicant requests administration of screening test 304. Screening test 304 may be remotely administered and scored online, i.e., unproctored, with the scores being automatically provided to correlation and predictive stack ranking 306. Alternatively, screening test 304 may be administered manually with paper and pencil, and then graded by hand or machine, with the scores being provided to correlation and predictive stack ranking 306. The predictive stack ranking may for example be constructed by system server 106 or employer server 112.

Correlation and predictive stack ranking 306 totals the graded answers according to particular competencies known to be relevant to successful job performance. In a preferred embodiment, the questions to be asked at the various stages are selected for a particular type of job being offered in accordance with a proven relationship with desired business

outcomes. Business outcomes can for example include: level of sales, customer satisfaction, quality measures such as fault rates, retention and tenure of employment, time keeping, learning ability, progression to more senior roles over time, and supervisor ratings of behavioral success. The particular type of job is defined in conjunction with the U.S. Department of Labor "O\*NET" classification system. Some types of jobs might include customer service, technical, professional, or managerial. Various competencies are determined to be associated with desired business outcomes for a given type of job. These competencies are tested for at various solution stages with appropriate questions.

The appropriate competencies, questions, scoring, weighting, and ranking factors for a new job can be designed from historical tests for existing jobs, by applying statistical techniques and using the gathering of data on the Internet to ensure rapid validation of the new assessment solution. Confirmatory job analysis is used to determine the appropriateness of solutions for a particular job.

Correlation and predictive stack ranking 306 may be administered by a computer processor located at system server 106, for example. Predictive stack ranking 306 may give different weight to different questions, and may at any stage immediately disqualify an applicant providing an unacceptable answer to a "knock-out" question. Correlation and predictive stack ranking 306 may rank the applicant in order against other job applicants in a table. Correlation and predictive stack ranking 306 may be used to decide which applicants to invite for the next stage, selection test 308.

Selection test 308 is preferably conducted under supervised conditions, i.e., proctored. For example, selection test 308 may be administered in person. An in-person test may take place at a job fair, an employer's location, a job site, or an employment agency. An in-person test may include verification of the job applicant's identity, such as by examination of a photo identification document produced by a test-taker. Selection test 308 may be administered online or manually. Supervised conditions typically include observation of the test-taker during administration of the test. The answers to selection test 308 are graded and the results are incorporated in correlation and stack rank 306.

Correlation and predictive stack ranking 306 may then update a previously created entry for the applicant and rank or re-rank the applicant in order against other job applicants. After this is accomplished, the highest ranking applicants may be invited for interview 310.

Interview 310 may be structured or unstructured, online or in person. If interview 310 is structured, a program leads the interviewer through the interview by suggesting questions one at a time. The program may be a list of questions written on paper or it may be a computer program resident for example in system server 106. The program suggests questions that are predetermined to be valid, i.e., proven to be associated with successful job performance and legally permitted. The interviewer can input the answers and/or a score for the answers, either after each answer or at the conclusion of the interview. This can be done via employer terminal 124, for example.

Interview 310 results in an interview score being provided to correlation and predictive stack ranking 306. Correlation and predictive stack ranking 306 is revised to reflect the interview score. In particular, the relative rank of the job applicants is reassessed.

FIG. 4 is a block diagram of a process employing feedback. Test design 402 is initially performed using industry-accepted standards. Test administration 404 tests and scores job applicants and/or incumbents. Employee performance evalu-

ation 406 measures actual job performance of the applicant or incumbent after holding the job for a period of time. This information is fed back to test design 402 and/or test administration 404. Test design 402 may be revised to delete questions which were not predictive of successful job performance. This can be done for example by deleting questions whose answers bore no relation to performance evaluation 406 for a statistically valid sample. Test administration 404 may be revised by adjusting the weight given to certain questions or answers that showed an especially strong correlation to employee performance evaluation 406. For example, if test administration 404 is associated with correlation and predictive stack ranking 306, feedback from employee performance evaluation 406 may help determine how various job applicants are comparatively ranked against each other.

FIG. 5 diagrams an online computer based system 500 in accordance with one embodiment of the invention. Box 502 represents a job vacancy with a requirement for an online screening and selection solution. The vacancy can come to the attention of a potential job applicant in a number of ways.

For example, box 504 represents an online application via a hiring company's own website. A company offering a job may post a vacancy announcement on the company's website and invite job seekers to apply by clicking on an icon labeled "apply here" or the like. Box 506 represents a similar posting on an online job board. Box 508 represents candidates given a Uniform Resource Locator (URL) directly by the company. This may occur when the company offering a job identifies a potential candidate. Box 510 represents a media advertisement including a URL for a job. Thus, job seekers observing the advertisement can direct their browsers to the indicated URL.

At job fair 512, job seekers may be provided a URL associated with the company or the particular vacancy. Paper-and-pencil measures could also be used at job fairs and entered into the system. A computer terminal may be provided for use of job seekers at job fair 512, enabling job seekers to participate in the online system. Box 514 represents an executive search via a recruiter network. Job seekers relevant to the search are identified in recruitment firm applicant database 516. Database 516 can link to a URL associated with the job.

Preferably, no matter how a potential applicant becomes aware of or identified for a job opening in system 500, the potential applicant is considered at decision 520. Decision 520 asks whether applicant has completed the required screening solution 524. If not, the applicant at box 522 is given via e-mail, mail, or in person, a URL for assessment. For example, system 500 may send an e-mail message to a potential applicant, the e-mail message inviting the potential applicant to apply for vacancy 502 by directing a browser to a screening solution URL provided in the e-mail message. Alternatively, when a potential applicant is visiting a website at which decision 520 determines that the required screening solution has not been completed, the website host can provide a link to a web page identified by the screening solution URL. Decision 520 may be based on a potential applicant's name, e-mail address, and/or other identifying information.

Screening solution 524 is administered via the Internet and is hosted at the screening solution URL mentioned above. Screening solution 524 asks screening questions to ascertain if the applicant has the basic qualifications to do the job. These are based on questions typically asked by recruiters but which are statistically validated over time to ensure they are legally defensible and predictive. The questions may include a combination of biodata and personality measures. They may include self-assessments of skill levels appropriate to the job requirements. Screening solution 524 requires applicants to transmit elicited information over the Internet. A possible

example of a web-based presentation for screening solution 524 is illustrated in FIG. 6. Screen shot 600 shows a portion of the presentation.

Once completed, screening solution 524 provides applicant feedback 540 and conveys applicant details and screening scores to stack ranked table of applicants 530. Applicant feedback 540 may provide a message to the online applicant indicating that the screening solution is complete, that the applicant has passed or failed the screening stage, and that the applicant may or may not be contacted in due course. Other information may also be provided to the applicant in the feedback pages, like a realistic job preview, recruiter phone number, scheduling information, etc.

Once an applicant has completed the screening solution, system 500 ranks the applicant in comparative order against other applicants in stack ranked table of applicants 530. A certain number or percentage of applicants in table 530 will be chosen for further consideration. For example, the applicants ranking among the top five of all applicants ranked in table 530 may be chosen for advancement in the system at this juncture. Information identifying the chosen applicants will be included on a "short list" as indicated by box 536.

The short list chosen at box 536 is transmitted to selection solution 538, at which the advancing applicants are invited to answer selection questions. Selection solution 538 asks additional questions and requires an advancing applicant to input answers. Preferably, the applicant completes selection solution 538 while sitting at a terminal located at one of the company's locations. The terminal communicates over the Internet with a website set up to administer the selection solution.

At the conclusion of selection solution 538, applicant feedback 540 is provided from the website to the applicant, and applicant details and scores 541 are incorporated in stack ranked table 530. Feedback 540 may optionally include a sophisticated report on the applicant's strengths and weakness. The applicant may then be directed to an appropriate web page chosen by the hiring company. One page may indicate successful completion and a second page may indicate failure. The appropriate web page may suggest other openings appropriate to the applicant's test responses and may provide hyperlinks the applicant can use to initiate the application process for these other openings.

Once stack ranked table 530 re-ranks the applicants as a result of selection solution 538, some applicants are invited to participate in interview solution 542. For example, the top three applicants as ranked by table 530 after selection solution 538 may be invited for an in-person interview. Because the selection solution is preferably in instant communication with stack ranked table 530, the interview invitation may be extended immediately at the conclusion of the selection solution.

Interview solution 542 is preferably a structured interview, with questions provided via the Internet to the interviewer at the company's location. The interviewer reads the provided questions and reports a score over the Internet from the company's location for incorporation in stack ranked table 530. Benchmark performance anchors may assist the interviewer in grading the applicant's responses.

Interview solution 542 can be designed according to two exemplary models. In a first model, an employer is provided with standard interview guides for several job types as well as the competency templates for these types so that the employer can build variations to meet specific needs. In a second model, an employer can build new interview guides and new competency templates. In the second model, the employer has access to the full array of work-related competencies and associated questions in a comprehensive question bank.

In ranking applicants, stack ranked table 530 may consider a combination of different biographical, personality, behav-

ioral, and other appropriate information and competencies. In addition to the comparative ranking, table 530 may indicate for each applicant a yes/no recommendation, a percentage likelihood of successful job performance, biographical information not used for evaluative purposes, and so forth.

Stack ranked table 530 may be developed by grading the various solution stages with a computer implementing the following algorithm. First, search for disqualifying answers to "knock-out" questions. Second, give points for answers matching those of the previously hired candidates who achieved a successful performance evaluation. Third, deduct points for answers matching those of the previously hired candidates who received an unsuccessful performance rating. Fourth, multiply the added or subtracted points by any weighting assigned each question. Fifth, sum the points for all questions related to a given competency. Sixth, compare the summed points for each competency to norms of either the job-holders in the company or a wider population. Seventh, predict performance of the applicant as a worker in the job, based on the business outcomes identified by the hiring company and the competencies that contribute to those outcomes.

A final selection 546 is made based on stack ranked table 530. Preferably, the selection is transmitted over the Internet to the company, enabling the company to make an offer to the selected applicant(s). For example, if there is only one opening, an offer may be extended to the applicant ranked highest by stack ranked table 530. If the applicant accepts the offer, the applicant is employed by the company. If the applicant declines, the next highest ranked applicant in stack ranked table 530 is offered the job. If a plural number of openings exist, that number of applicants may be selected off the top of stack ranked table 530 and offered the job. If one of the applicants declines, the next highest ranked applicant in stack ranked table 530 is offered the job. Data from stack ranked table 530 is forwarded to data warehouse 534.

The performance of successful applicants is monitored during their employment. At box 550, performance data for successful applicants are collected at a later date, and sent 548 to data warehouse 534.

Data collected at data warehouse 534 are used for research and development and for reporting purposes. For example, functions enabled by storing comprehensive data generated by system 500 may include:

Storage of question level responses from applicants for jobs. This can be used for re-checking of applicant information (auditing etc.) and for research to develop new solutions and questions.

Reporting on Equal Employment Opportunity Commission requirements. Data on ethnicity etc. can be stored to enable an employer to comply with reporting requirements to government agencies.

Source of data for designing new solutions including data on the nature of the job and the competencies that are required by the role (job analysis). This data is collected using online assessments.

Source of data for statistical research on correlation between the solutions and their predicted outcomes for applicants, and the actual outcomes for employees who were hired (validation studies).

Design of solutions other than recruitment related solutions.

Reporting of usage volumes for billing and financing accounting purposes.

Because system 500 preferably uses instant communications, adaptive testing techniques may be implemented online. An applicant's failure to overcome hurdles in a given solution will deliver a different path through the solution than that of a successful applicant. The degree of advancement of a given applicant through system 500 may result in different charges to the company from a solutions provider. For

example, a solutions provider that hosts a website supporting screening solution 524, selection solution 538, and interview solution 542 may charge the hiring company the following amounts: one dollar for every applicant completing only the screening solution, five dollars for every applicant advancing only to the end of the selection solution, ten dollars for every applicant rejected after the interview solution, twenty dollars for every applicant offered a job, and fifty dollars for every applicant accepting an offer.

In practice, any of the various stages (screening solution 524, selection solution 538, and interview solution 542) may be skipped, re-ordered, combined with other stages, or eliminated. Or, a short telephone interview may be structured early in the process to quickly screen applicants.

FIG. 7 shows an example of a stack ranked table. Computer screen shot 700 illustrates a sample stack ranked table 730 for a customer service job. Various tabs permit viewing of data generated by each solution stage. Tab 702 reveals data 703 from a screening solution, tab 704 reveals data 705 from a selection solution, tab 706 reveals data 707 from an interview solution, and tab 708 reveals all results. In screen shot 700, tab 708 is selected.

Section 709 of screen shot 700 shows general information about each applicant, including current rank 710, a link 712 to application information (not shown), last name 714, first name 716, and application date 718.

Screening solution data 703 includes an indication 720 of whether each applicant successfully passed the knockout requirements for the job. Data 703 also includes scores on certain competencies such as educational and work related experience 722, customer service orientation 724, and self-confidence 726. Column 728 indicates whether each applicant is recommended to advance beyond the screening stage.

Selection solution data 705 includes scores on certain competencies such as customer focus 732, conscientiousness 734, and problem solving 736. Column 738 indicates whether each applicant is recommended to advance beyond the selection stage. Column 740 includes a detailed report for each applicant, while column 750 includes a score.

Additional information (not shown) may include columns for storage of data from other decision-making processes such as drug testing, reference checks, or medical exams.

FIG. 8 shows an example of a screening solution question presented to an applicant taking a screening solution test over the Internet. In screen shot 800, simulated customer contact record 802 is presented to the applicant. The applicant is asked question 804, and is required to click on a circle next to one of the answers. Question 804 may test for a competency in working with information, for example.

FIG. 9 shows an example of a structured interview guide for use in an interview solution. As illustrated, the interview guide is being presented online on a computer screen to an interviewer conducting an interview with an applicant. Screen shot 900 shows interview item 902 for a sample customer service job. The customer service job opening is for a call center position, and revenue focus has been identified as a relevant and predictive competency. Item 902 elicits from the applicant a situation 904, the applicant's behavior 906 in the situation, and the outcome 908 reported by the applicant. The interviewer can grade the applicant's responses to item 902 by marking a score 910 from 1 to 10.

FIG. 10 illustrates procedural steps that may be followed in a web-based applicant system according to an embodiment of the present invention.

FIG. 11 illustrates procedural steps that may be followed in a web-based selection solution according to an embodiment of the present invention. For example, these steps may follow those illustrated in FIG. 10.

FIG. 12 illustrates procedural steps that may be followed by an employer according to an embodiment of the present invention.

The following tables provide examples of screening solutions and selection solutions designed for different types of

jobs. The tables show components (competencies) shown to be relevant to successful performance of each job type. In the tables, some components are considered required, and others are considered optional.

TABLE ONE

<u>Entry/General Skilled Solutions</u>			
	Solution Component	Definition	Items
<u>Screening 7-10 Minutes</u>			
Required	Educational and Work-Related Experience	Measures potential for success in entry-level jobs across industry type and functional area. Scores on Education and Work-Related Experience are derived from candidates' responses to questions regarding developmental influences, self-esteem, work history and work-related values and attitudes.	15
	Self-Confidence	This component references belief in one's own abilities and skills and a tendency to feel competent in several areas.	7
Optional	Decision Making/Flexibility	Measures potential for success in entry level positions. Scores on Decision Making and Flexibility are derived from candidates' responses to questions regarding developmental influences, self-esteem, work history and work-related values and attitudes.	8
<u>Screening 23-35 Minutes</u>			
Required	Conscientiousness	This component is designed to predict the likelihood that candidates will follow company policies exactly, work in an organized manner, return from meals and breaks in the allotted time, and keep working, even when coworkers are not working.	65
	Retention Predictor	Measures commitment, impulsiveness, responsibility, and motivation. It predicts the likelihood that a new hire will remain on the job for at least three months.	44
Optional	Learning Ability	This component measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to learn work-related tasks, processes, and policies.	54 (12 minute timer)

TABLE TWO

<u>Customer Service Solution</u>			
	Solution Component	Definition	Items
<u>Screening 8-10 Minutes</u>			
Required	Educational and Work-Related Experience	Measures potential for success in customer service jobs. Scores on Education and Work-Related Experience are derived from candidates responses to questions regarding developmental influences, self-esteem, work history and work-related values and attitudes.	15

TABLE TWO-continued

<u>Customer Service Solution</u>		
Solution Component	Definition	Items
Customer Service Orientation	Designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	20
Optional Self-Confidence	This component references: belief in one's own abilities and skills and a tendency to feel competent in several areas	7
<u>Screening 17-29-37 Minutes</u>		
Required Customer Focus	Designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	32
Consentuousness	This component is designed to predict the likelihood that candidates will follow company policies exactly, work in an organized manner, return from meals and breaks in the allotted time, and keep working, even when coworkers are not working.	65
Optional Learning Ability	This component measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to learn work related tasks, processes, and policies.	54 (12 minute timer)
Optional Retention Predictor	Measures commitment, impulsiveness, responsibility, and motivation. It predicts the likelihood that a new hire will remain on the job for at least three months.	44

TABLE THREE:

<u>Three-Customer Service Solution: Sales Position</u>		
Solution Component	Definition	Items
<u>Screening 9-15 Minutes</u>		
Required Educational and Work-Related Experience	Measures potential for success in customer service jobs. Scores on Education and Work-Related Experience are derived from candidates responses to questions regarding developmental influences, self-esteem, work history and work-related values and attitudes.	15
Customer Service Orientation	This component is designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	20
Optional Sales Potential	Designed to predict the likelihood that candidates will suggest or show alternative solutions based on customer needs, direct conversation	23

TABLE THREE-continued

<u>Three-Customer Service Solution: Sales Positions</u>		
Solution Component	Definition	Items
<u>Screening 15-27 Minutes</u>		
Required Sales Potential	Designed to predict the likelihood that candidates will suggest or show alternative solutions based on customer needs, direct conversation toward a commitment/order/sale, show confidence even after a hard refusal/rejection, and strive to close a transaction every time.	60
Customer Focus	Designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	32
Optional Learning Ability	This component measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to learn work-related tasks, processes, and policies.	54 (12 minute timer)

TABLE FOUR

<u>Customer Service Solution: Call Center Positions</u>		
Solution Component	Definition	Items
<u>Screening 9-11 minutes</u>		
Required Educational and Work-Related Experience	Measures potential for success in customer service jobs. Scores on Education and Work-Related Experience are derived from candidates responses to questions regarding developmental influences, self-esteem, work history and work-related values and attitudes.	15
Customer Service Orientation	Designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	20
Optional Self-Confidence	This component references belief in one's own abilities and skills and a tendency to feel competent in several areas.	7
<u>Screening 16-31-39 Minutes</u>		
Required Customer Focus	This component is designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	32

TABLE FOUR-continued

<u>Customer Service Solution: Call Center Positions</u>		
Solution Component	Definition	Items
Conscientiousness	This component is designed to predict the likelihood that candidates will follow company policies exactly, work in an organized manner, return from meals and breaks in the allotted time, and keep working, even when coworkers are not working.	65
Working with Information	This component is designed to predict success in customer service call-center jobs by assessing a candidate's ability to retrieve information and use it in order to solve problems.	30 (15 minute timer)
Optional Retention Predictor	Measures commitment, impulsiveness, responsibility, and motivation. It predicts the likelihood that a new hire will remain on the job for at least three months.	44

TABLE FIVE

<u>Customer Service Solution: Call Center Sales Positions</u>		
Solution Component	Definition	Items
<u>Screening 9-15 Minutes</u>		
Required Educational and Work-Related Experience	Measures potential for success in customer service jobs. Scores on Education and Work-Related Experience are derived from candidates' responses to questions regarding developmental influences, self-esteem, work history and work-related values and attitudes.	15
Customer Service Orientation	Designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	20
Optional Sales Potential	Designed to predict the likelihood that candidates will suggest or show alternative solutions based on customer needs, direct conversation toward a commitment/order/sale, show confidence even after a hard refusal/rejection, and strive to close a transaction every time.	23
<u>Screening 30 Minutes</u>		
Required Sales Focus	Designed to predict the likelihood that candidates will suggest or show alternative solutions based on customer needs, direct conversation toward a commitment/order/sale, show confidence even after a hard refusal/rejection, and strive to close a transaction every time.	60
Customer Focus	Designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	32

TABLE FIVE-continued

<u>Customer Service Solution: Call Center Sales Positions</u>		
Solution Component	Definition	Items
Working with Information	This component is designed to predict success in customer service call-center jobs by assessing a candidate's ability to retrieve information and use it in order to solve problems.	30 (15 minute timer)

TABLE SIX

<u>Sales Solutions</u>			
	Solution Component	Definition	Items
<u>Screening 10-14 minutes</u>			
Required	Educational and Work-Related Experience	Measures potential for success in customer service jobs. Scores on Education and Work-Related Experience are derived from candidates responses to questions regarding developmental influences, self-esteem, work history and work-related values and attitudes.	15
	Sales Potential	Designed to predict the likelihood that candidates will suggest or show alternative solutions based on customer needs, direct conversation toward a commitment/order/sale, show confidence even after a hard refusal/rejection, and strive to close a transaction every time.	23
Optional	Customer Service Orientation	Designed to predict the likelihood that candidates will show persistent enthusiasm in customer interaction, apologize sincerely for inconveniences to customers, be patient with customers, tolerate rude customers calmly, and search for information or products for customers.	20

Screening 10-25-40 Minutes

Required	Sales Focus	Designed to predict the likelihood that candidates will suggest or show alternative solutions based on customer needs, direct conversation toward a commitment/order/sale, show confidence even after a hard refusal/rejection, and strive to close a transaction every time.	60
Optional	Problem Solving	Measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to solve complex problems, and make reasoned decisions.	10
Optional	Communication	Measures the tendency to efficiently and effectively use verbal reasoning. This competency is characterized by the ability to verbally explain complex information to others.	10

TABLE SEVEN

<u>Supervisory Solutions</u>		
Solution Component	Definition	Items
<u>Screening 10-20 Minutes</u>		
Required	Supervisory Potential	Measures potential for supervisory success across industry type and functional area. Scores on
		10



TABLE SEVEN-continued

<u>Supervisory Solutions</u>		
Solution Component	Definition	Items
Judgment	Supervisory Potential are derived from candidates' responses to questions regarding academic and social background, and aspirations concerning work. Measures potential for making good judgments about how to effectively respond to work situations. Scores on Judgment are derived from candidates' responses to questions regarding situations one would likely encounter as a manager/supervisor.	10
Optional Leadership/Coaching/Teamwork/Interpersonal Skills	Measures potential for success as a supervisor. This is done by having applicants make judgments about the most effective teamwork and leadership behaviors in specific work situations. Scores are determined by comparing their response profiles to the profiles of supervisors who are known to be successful.	19
<u>Screening 22-37-52 Mins</u>		
Required Business Leadership	Measures the candidate's thinking styles. High scorers are likely to have or learn good planning and organizing skills, be innovative, consider issues from multiple perspectives, and create strategies to build their business.	28
Required Leadership Motivation	Measures the candidate's desire for achievement, drive, initiative, energy level, willingness to take charge, and persistence. High scorers are likely to be highly motivated to succeed and to set challenging goals for themselves and others.	23
Self-leadership	Measures the candidate's ability to control emotions, act with integrity, take responsibility for actions, and tolerate stress. High scorers are also likely to have a positive attitude, be optimistic about the future, and demonstrate high levels of professionalism.	32
Interpersonal Leadership	Measures the candidate's interpersonal characteristics. High scorers are likely to persuade and influence others, gain commitment, and build effective interpersonal relationships. They also have potential to develop skills in the area of employee relations, coaching, motivating, and leading a team.	30
Optional Decision Making/Problem Solving	Measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to solve complex problems, and make reasoned decisions.	10
Optional Communication	Measures the tendency to efficiently and effectively use verbal reasoning. This competency is characterized by the ability to verbally explain complex information to others.	10

TABLE EIGHT

Professional Solutions		
Solution Component	Definition	Items
<u>Screening 7 - Minutes</u>		
Required Dependability	This competency is characterized by: a willingness to behave in expected and agree upon ways; following through on assignments and commitments; keep promises; and accept the consequences of one's own actions.	40
Interpersonal Skills	This competency is indexed by a tendency to be pleasant, cooperative, and helpful when working with others, as well as flexible in conflict resolution situations.	
Self-Control	This competency is characterized by the ability to: stay calm and collected when confronted with adversity, frustration, or other difficult situations; and avoid defensive reactions or hurt feelings as a result of others' comments.	
Energy	This competency is characterized by a preference to stay busy, active, and avoid inactive events or situations.	
<u>Selection 35-50 Minutes</u>		
Required Business Leadership	Measures the candidate's thinking styles. High scorers are likely to have or learn good planning and organizing skills, be innovative, consider issues from multiple perspectives, and create strategies to build their business.	32
Leadership Motivation	Measures the candidate's desire for achievement, drive, initiative, energy level, willingness to take charge, and persistence. High scorers are likely to be highly motivated to succeed and to set challenging goals for themselves and others.	35
Self-Leadership	Measures the candidate's ability to control emotions, act with integrity, take responsibility for actions, and tolerate stress. High scorers are also likely to have a positive attitude, be optimistic about the future, and demonstrate high levels of professionalism.	34
Interpersonal Leadership	Measures the candidate's interpersonal characteristics. High scorers are likely to persuade and influence others, gain commitment, and build effective interpersonal relationships. They also have potential to develop skills in the areas of employee relations, coaching, motivating, and leading a team.	41
Decision Making/Problem Solving	Measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to solve complex problems, and make reasoned decisions.	10
Optional Communication	Measures the tendency to efficiently and effectively use verbal reasoning. This competency is characterized by the ability to verbally explain complex information to others.	16

TABLE NINE

<u>Managerial Solutions</u>			
Solution Component	Definition	Items	
<u>Screening 10-20 Minutes</u>			
Required Management Potential	Measures potential for managerial success across industry type and functional area. Scores on Management Potential are derived from candidates' responses to questions regarding academic and social background, and aspirations concerning work.	10	
Judgment	Measures potential for making good judgments about how to effectively respond to work situations. Scores on Judgment are derived from candidates' responses to questions regarding situations one would likely encounter as a manager/supervisor.	10	
Optional Self-Confidence	This component references: belief in one's own abilities and skills and a tendency to feel competent in several areas.	10	
Decision Making	Measures potential for success as a manager. This is done by having applicants' make judgments about the most effective decisions in specific work situations. Their potential is determined by comparing their response profiles to the profiles of successful managers.		
<u>Selection 20-35-50 Mins</u>			
Required Business Leadership	Measures the candidate's thinking styles. High scores are likely to have or learn good planning and organizing skills, be innovative, consider issues from multiple perspectives, and create strategies to build their business.	32	
Leadership Motivation	Measures the candidate's desire for achievement, drive, initiative, energy level, willingness to take charge, and persistence. High scores are likely to be highly motivated to succeed and to set challenging goals for themselves and others.	35	
Self-Leadership	Measures the candidate's ability to control emotions, act with integrity, take responsibility for actions, and tolerate stress. High scores are also likely to have a positive attitude, be optimistic about the future, and demonstrate high levels of professionalism.	34	
Interpersonal Leadership	Measures the candidate's interpersonal characteristics. High scores are likely to persuade and influence others, gain commitment, and build effective interpersonal relationships. They also have potential to develop skills in the areas of employee relations, coaching, motivating, and leading a team.	41	
Optional Decision Making/Problem Solving	Measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to solve complex problems, and make reasoned decisions.	10	
Optional Communication	Measures the tendency to efficiently and effectively use verbal reasoning. This competency is characterized by the ability to verbally explain complex information to others.	10	

TABLE TEN

Technical-Professional Solutions			
Solution Component	Definition	Items	
<u>Screening 8 Minutes</u>			
Required	Dependability	This competency is characterized by: a willingness to behave in expected and agree upon ways; following through on assignments and commitments; keeping promises; and accepting the consequences of one's own actions.	40
	Interpersonal Skills	This competency is indexed by a tendency to be pleasant, cooperative, and helpful when working with others, as well as flexible in conflict resolution situations.	
	Self-Control	This competency is characterized by the ability to: stay calm and collected when confronted with adversity, frustration, or other difficult situations; and avoid defensive reactions or hurt feelings as a result of others' comments.	
	Energy	This competency is characterized by a preference to stay busy, active, and avoid inactive events or situations.	
<u>Selection 35-50 Minutes</u>			
Required	Business Leadership	Measures the candidate's thinking styles. High scorers are likely to have or learn good planning and organizing skills, be innovative, consider issues from multiple perspectives, and create strategies to build their business.	32
	Leadership Motivation	Measures the candidate's desire for achievement, drive, initiative, energy level, willingness to take charge, and persistence. High scorers are likely to be highly motivated to succeed and to set challenging goals for themselves and others.	35
	Self-Leadership	Measures the candidate's ability to control emotions, act with integrity, take responsibility for actions, and tolerate stress. High scorers are also likely to have a positive attitude, be optimistic about the future, and demonstrate high levels of professionalism.	34
	Interpersonal Leadership	Measures the candidate's interpersonal characteristics. High scorers are likely to persuade and influence others, gain commitment, and build effective interpersonal relationships. They also have potential to develop skills in the areas of employee relations, coaching, motivating, and leading a team.	41
	Decision Making/Problem Solving	Measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to solve complex problems, and make reasoned decisions.	10
Optional	Communication	Measures the tendency to efficiently and effectively use verbal reasoning. This competency is characterized by the ability to verbally explain complex information to others.	10

TABLE ELEVEN

<u>Executive Solutions</u>			
Solution Component	Definition	Items	
<u>Screening 20 Minutes</u>			
Required Executive Potential	Measures potential for success in high-level organizational positions across industry type and functional area. Scores on Executive Potential are derived from candidates' responses to questions regarding work background, accomplishments, and career aspirations.	53	10
<u>Selection 35-50 Minutes</u>			
Required Business Leadership	Measures the candidate's thinking styles. High scorers are likely to have or learn good planning and organizing skills, be innovative, consider issues from multiple perspectives, and create strategies to build their business.	32	15
Leadership Motivation	Measures the candidate's desire for achievement, drive, initiative, energy level, willingness to take charge, and persistence. High scorers are likely to be highly motivated to succeed and to set challenging goals for themselves and others.	35	20
Self-Leadership	Measures the candidate's ability to control emotions, act with integrity, take responsibility for actions, and tolerate stress. High scorers are also likely to have a positive attitude, be optimistic about the future, and demonstrate high levels of professionalism.	34	30
Interpersonal Leadership	Measures the candidate's interpersonal characteristics. High scorers are likely to persuade and influence others, gain commitment, and build effective interpersonal relationships. They also have potential to develop skills in the areas of employee relations, coaching, motivating, and leading a team.	41	35
Decision Making/Problem Solving	Measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to solve complex problems, and make reasoned decisions.	10	40
Optional Communication	Measures the tendency to efficiently and effectively use verbal reasoning. This competency is characterized by the ability to verbally explain complex information to others.	10	45

TABLE TWELVE

<u>Campus Recruiting Solutions</u>			
Solution Component	Definition	Items	
<u>Screening 12 Minutes</u>			
Required Supervisory Potential	Measures potential for supervisory success across industry type and functional area. Scores on Supervisory Potential are derived from candidates' responses to questions regarding academic and social background, and aspirations concerning work.	26	65

TABLE TWELVE-continued

<u>Campus Recruiting Solutions</u>			
Solution Component	Definition	Items	
<u>Screening 20-35-50 Minutes</u>			
Judgment	Measures potential for making good judgments about how to effectively respond to work situations. Scores on Judgment are derived from candidates' responses to questions regarding situations one would likely encounter as a manager/supervisor.		
Management Potential	Measures potential for managerial success across industry type and functional area. Scores on Management Potential are derived from candidates' responses to questions regarding academic and social background, and aspirations concerning work.		
Required Business Leadership	Measures the candidate's thinking styles. High scorers are likely to have or learn good planning and organizing skills, be innovative, consider issues from multiple perspectives, and create strategies to build their business.	32	25
Leadership Motivation	Measures the candidate's desire for achievement, drive, initiative, energy level, willingness to take charge, and persistence. High scorers are likely to be highly motivated to succeed and to set challenging goals for themselves and others.	35	30
Self-Leadership	Measures the candidate's ability to control emotions, act with integrity, take responsibility for actions, and tolerate stress. High scorers are also likely to have a positive attitude, be optimistic about the future, and demonstrate high levels of professionalism.	34	40
Interpersonal Leadership	Measures the candidate's interpersonal characteristics. High scorers are likely to persuade and influence others, gain commitment, and build effective interpersonal relationships. They also have potential to develop skills in the area of employee relations, coaching, motivating, and leading a team.	41	45
Decision Making/Problem Solving	Measures the tendency to efficiently and effectively use numerical and analytical reasoning. This competency is characterized by the ability to solve complex problems, and make reasoned decisions.	10	50
Optional Communication	Measures the tendency to efficiently and effectively use verbal reasoning. This competency is characterized by the ability to verbally explain complex information to others.	10	55

TABLE THIRTEEN

Communication Solution			
Solution Component	Definition	Items	
<u>Solution 37 Minutes</u>			
Required	Listening Orientation	Measure of the tendency to listen to and understand others' perspectives, to care for others, to accept and respect the individual differences of people, and to be open both to multiple ideas and to using alternative modes of thinking.	73
	English Language Skills	Measures usage of verb tense and sentence construction. Scores on English Language Skills are derived from candidates' responses to grammar questions.	10
	Verbal Reasoning/Critical Thinking	Measures verbal reasoning skills and critical thinking/reasoning skills. Scores on Verbal Reasoning Ability are derived from candidates' responses to analogies and questions about information provided in brief reading passages.	15

TABLE FOURTEEN

Series Six/Seven Success Solution			
Solution Component	Definition	Items	
<u>Solution 36 Minutes</u>			
Required	Problem Solving	Measures the ability to analyze and evaluate information. Scores on Problem Solving are derived from candidates' responses to mathematical and analytical reasoning items, requiring candidates to respond to facts and figures presented in various formats.	20
	Verbal Reasoning/Critical Thinking	Measures verbal reasoning skills and critical thinking/reasoning skills. Scores on Verbal Reasoning Ability are derived from candidates' responses to analogies and involves making inferences from information provided in the form of brief passages.	35

TABLE FIFTEEN

Information Technology Aptitude Solution			
Solution Component	Definition	Items	
<u>Solution 18 Minutes</u>			
Required	Critical Thinking	Measure reasoning and critical thinking skills. Scores on Critical Thinking are derived from candidates' responses to information provided in the form of brief passages.	58
	Problem Solving	Measures the ability to analyze and evaluate information. Scores on Problem Solving are derived from candidates' responses to mathematical and analytical reasoning items, requiring candidates to respond to facts and figures presented in various scenarios.	60

TABLE FIFTEEN-continued

Information Technology Aptitude Solution			
Solution Component	Definition	Items	
	Communication	Measures the ability to efficiently use verbal information. Scores on Communication are derived from candidates' ability to identify synonyms.	10
	Spatial Ability	Measures the ability to visually manipulate objects. Scores on Spatial Ability are derived from candidates' ability to correctly identify the number of blocks in progressively difficult figures.	15

Although the disclosure has focused on recruiting applications, the generated data may be used in other human capital applications. FIG. 13 illustrates a human capital management life-cycle. Measurement and data 1301 is initially used in the context of recruiting 1302. For recruiting 1302, screening, selection, and interview solutions measure applicants' competencies and predict on-the-job performance and thus contribution to business outcomes.

For compensation 1303, data about potential can be weighed against performance data to ensure that high potential employees who are on difficult assignments where they are structurally constrained from succeeding are not underpaid by pure focus on performance. For example, structural constraints may include business environments, poor staff, unreliable equipment, etc.

For retention 1304, businesses with jobs that high turnover use the system to ensure that applicants have qualities that contribute to longer tenure in roles.

For performance role 1305, the system can be used to enhance the validity of employee performance evaluation.

For training and development 1306, a company may test current employees in order to design executive training programs addressing each individual's strengths and weaknesses. Or, for employees that took a test and were hired despite weaknesses, the data can be used to structure appropriate training.

For succession 1307, data on employees may be collected in the process of organization mergers to assist planning for retrenchment or change. Also, by measuring competencies and mapping them between roles, it is possible to assess the potential that an individual may have for a role other than the job they are currently holding, such as for a promotion or a transfer to another area.

The foregoing description is to be considered as illustrative only. The skilled artisan will recognize many variations and permutations within the spirit of the disclosure.

The invention claimed is:

1. An electronic prediction system for assessing a suitability of job applicants for an employer, the electronic prediction system comprising:

a plurality of terminals connected to the Internet and accessible by the applicants;

an applicant screening server connected through the Internet to the terminals, the applicant screening server having a testing computer program and storing test data;

a statistical correlation system for validating a set of application questions by statistically correlating job performance ratings of a plurality of workers who were hired

33

with previous responses given by the plurality of workers to application questions before the plurality of workers were hired;

a website identified by a uniform resource locator indicated in an employer job advertisement, the website configured to present application questions to the applicants at the terminals and to receive applicant responses entered at the terminals in response to presentation of the application questions, the application questions comprising: requirements questions eliciting information on whether the applicants meet employment requirements; and

a set of validated questions validated by the statistical correlation system, the set of validated questions being a short subset of a larger in-depth assessment, the short subset being selected to present a job-related pre-screen that can be presented at the terminals faster than presenting all questions in the larger in-depth assessment;

a scoring system for automatically scoring the applicant responses in real time, the scoring system comparing applicant responses for requirements questions to employer requirements and being validated to predict both performance and turnover potential;

a scoring database connected to the applicant screening server;

an applicant input system located on the employer's premises and configured to administer an in-depth assessment to an applicant at the employer's premises after the applicant has come to the employer's premises and logged on; and

a viewing system for permitting the employer to view applicant results from the electronic prediction system and the applicant's rank order, the applicant results providing information on applicants who have a high probability of performing successfully and not terminating early.

2. An electronic prediction system for assessing a suitability of job applicants for an employer, the electronic prediction system comprising:

a plurality of terminals connected to the Internet and accessible by the applicants;

an applicant screening server connected through the Internet to the terminals, the applicant screening server having a testing computer program and storing test data;

a statistical correlation system for validating a set of application questions by statistically correlating job performance ratings of a plurality of workers who were hired with previous responses given by the plurality of workers to application questions before the plurality of workers were hired;

a resource identified by a uniform resource locator, the resource configured to present application questions to the applicants at the terminals and to receive applicant

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responses entered at the terminals in response to presentation of the application questions, the application questions comprising:

requirements questions eliciting information on whether the applicants meet employment requirements; and

validated questions validated by the statistical correlation system;

a scoring system for automatically scoring the applicant responses in real time, the scoring system being validated by the statistical correlation system to predict both performance and turnover potential;

a scoring database connected to the applicant screening server; and

a viewing system for permitting the employer to view applicant results from the electronic prediction system and the applicant's rank order, the applicant results providing information on applicants who have a high probability of performing successfully and not terminating early.

3. An electronic prediction system for assessing a suitability of job applicants for an employer, the electronic prediction system comprising:

a plurality of terminals connected to the Internet and accessible by the applicants;

an applicant screening server connected through the Internet to the terminals, the applicant screening server having a testing computer program and storing test data;

a statistical correlation system for validating a set of application questions by statistically correlating job performance ratings of a plurality of workers who were hired with previous responses given by the plurality of workers to application questions before the plurality of workers were hired;

a resource identified in an employer job advertisement, the resource configured to present application questions to the applicants at the terminals and to receive applicant responses entered at the terminals in response to presentation of the application questions, the application questions comprising:

requirements questions eliciting information on whether the applicants meet employment requirements; and

validated questions validated by the statistical correlation system;

a scoring system for automatically scoring the applicant responses in real time, the scoring system being validated to predict both performance and turnover potential;

a scoring database connected to the applicant screening server; and

a viewing system for permitting the employer to view applicants results from the electronic prediction system and the applicant's rank order, the applicant results providing information on applicants who have a high probability of performing successfully and not terminating early.

\* \* \* \* \*

# ATTACHMENT C





## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

24113

7590

06/25/2009

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.  
4800 IDS CENTER  
80 SOUTH 8TH STREET  
MINNEAPOLIS, MN 55402-2100

EXAMINER

WONG, LUT

ART UNIT

PAPER NUMBER

2129

DATE MAILED: 06/25/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,245	06/12/2001	Katrina L. Dewar	2951.03US02	3786

TITLE OF INVENTION: AN ELECTRONIC PREDICATION SYSTEM FOR ASSESSING A SUITABILITY OF JOB APPLICANTS FOR AN EMPLOYER

APPL. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/25/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or **Fax** (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

24113 7590 06/25/2009

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.  
4800 IDS CENTER  
80 SOUTH 8TH STREET  
MINNEAPOLIS, MN 55402-2100

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/878,245

06/12/2001

Katrina L. Dewar

2951.031/502

3786

TITLE OF INVENTION: AN ELECTRONIC PREDICATION SYSTEM FOR ASSESSING A SUITABILITY OF JOB APPLICANTS FOR AN EMPLOYER

APPL. N. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/25/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
WONG, LUT	2129	706-045000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.553).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1	
2	
3	

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form)

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_  
Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,245	06/12/2001	Katrina L. Dewar	2951.03US02	3786

24113 7590 06/25/2009

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.  
4800 IDS CENTER  
80 SOUTH 8TH STREET  
MINNEAPOLIS, MN 55402-2100

EXAMINER

WONG, LUT

ART UNIT	PAPER NUMBER
----------	--------------

2129

DATE MAILED: 06/25/2009

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1063 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1063 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability****Application No.**

09/878,245

**Examiner**

LUT WONG

**Applicant(s)**

DEWAR, KATRINA L.

**Art Unit**

2129

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6-10-2009.
2. ☒ The allowed claim(s) is/are 15-17, renumbered as 1-3.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 6-17-2009
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **DETAILED ACTION**

This office action is responsive to an RCE AMENDMENT entered 6-10-2009 for the patent application 09/878245.

### ***Status of Claims***

Claims 15-17, 18-35 are pending. Claim 16 has been amended. Claim 18-35 are cancel in Examiner's amendment (See below). As a result, only claims 15-17 are pending and allowed.

### **EXAMINER'S AMENDMENT**

Authorization for this examiner's amendment was given in a telephone interview with Bred Pedersen on Jun 17, 2009.

The application has been amended as follows:

#### **IN THE CLAIMS:**

1. **Claims 18-35** are cancelled.

### **Reasons for allowance**

The following is an examiner's statement of reasons for allowance:

Claims 15-17 are considered allowable since when reading the claims in light of the specification, as per MPEP § 2111.01, *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385 (Fed. Cir. 1983), none of the references of record alone or in combination disclose or suggest the combination of limitations specified in the independent claims.

In particular, the limitation "validating a set of application questions by statistically correlating job performance ratings of a plurality of workers who were hired with previous responses given by the plurality of workers to application questions before the plurality of workers were hired " is not taught.

While the Examiner considers such limitation as being drawn to measuring the effectiveness of the hiring questions and reads on benchmarking, the applicant disagrees and insists they are not the same. See remark pg. 15. Nevertheless, applicant's argument is taken as persuasive. As such, one that uses the teaching of Rubenstein of benchmarking retention patterns and turnover rates would be reads on "statically validating questions". *In re festo, U.S. Court of Appeals Federal Circuit No. 95-1066 56, USPQ.2d 1865.*

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUT WONG whose telephone number is (571)270-1123. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent David can be reached on (571) 272-3080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lut Wong/  
Examiner, Art Unit 2129

/David R Vincent/  
Supervisory Patent Examiner, Art Unit 2129

# ATTACHMENT D



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2951.03US02

Katrina L. Dewar

Confirmation No.: 3786

Application No.: 09/878,245

Examiner: Lut Wong

Filed: June 12, 2001

Group Art Unit: 2129

For: COMPUTER-IMPLEMENTED SYSTEM FOR HUMAN RESOURCES  
MANAGEMENT

---

PATENT TERM ADJUSTMENT LETTER OF CANDOR AND GOOD FAITH

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The attention of the Office is directed to the Patent Term Adjustment reported by the Office for the instant case. The reported PTA of 1063 days is thought by Applicant to be at least 77 days longer than appropriate, due to the filing of Supplemental Amendments that were received by the Office on April 7, 2006 and June 17, 2009, that do not appear to have been considered in the PTO's PTA calculation.

Additionally, the non-compliant appeal brief that was submitted by Applicant on October 18, 2006, may not have been properly considered in the PTO's PTA calculation. Specifically, if this brief is considered a reply having an omission, a reduction of 117 days may be appropriate under 37CFR 1.704(c)(7). Additionally, Applicant's award of 120 days for the PTO failing to respond to a compliant appeal brief should be reduced to 6 days.

U.S. Application No. 09/878,245

Applicant respectfully requests that the Office verify and confirm the applied PTA before issuance of the patent.

Respectfully submitted,



Chad J. Wickman  
Registration No. 58,356

Customer No. 24113  
Patterson, Thuente, Skaar & Christensen, P.A.  
4800 IDS Center  
80 South 8th Street  
Minneapolis, Minnesota 55402-2100  
Telephone: (612) 252-1543

*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*

# ATTACHMENT E



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
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SEP 08 2009

In re Application of

Dewar

Application No. 09/878,245

Filed: June 12, 2001

Atty. Dkt. No.: 2951.03US02

**OFFICE OF PETITIONS**

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: LETTER REGARDING PTA  
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This letter is in response to the "PATENT TERM ADJUSTMENT LETTER OF CANDOR AND GOOD FAITH," filed July 16, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed June 25, 2009 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 1,063 days. Applicant indicates that this adjustment does not reflect 77 days of applicant reduction in connection with supplemental replies filed April 7, 2006 and June 17, 2009. Applicant further indicates that the adjustment may have improperly accorded an adjustment of 120 days in connection with the mailing of a non-final Office action on June 18, 2007 in response to the corrected appeal brief filed February 12, 2007.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 872 days.

The application was properly accorded an adjustment of 1,142 days in accordance with 37 CFR 1.702(a)(1).

As indicated by applicant, the application was errantly accorded an adjustment of 120 days in connection with the non-final Office action mailed June 18, 2007. An appeal brief was filed October 18, 2006. A Notice of Defective Appeal Brief was mailed January 12, 2007. A corrected appeal brief was filed February 12, 2007. Thus, in accordance with 37 CFR 1.702(a)(2), the application is entitled to an additional adjustment of six days, not 120 days. The adjustment commenced June 13, 2007, the day after the date that is four months after the date that the corrected appeal brief was filed, and ended June 18, 2007, the date that the non-final Office action was mailed. See, 37 CFR 1.703(a)(4).

The adjustment was properly reduced 199 days in accordance with 37 CFR 1.704(b). However, as indicated by applicant, the Office neglected to assess reductions in connection with the supplemental replies filed April 7, 2006 and June 17, 2009.

In accordance with 37 CFR 1.704(c)(8), the adjustment is properly reduced 70 days. The reduction commenced January 28, 2006, the day after the date that the initial reply to the non-

final Office action dated September 27, 2005 was filed, and ended April 7, 2006, the date that the supplemental reply (IDS) was filed.

In accordance with 37 CFR 1.704(c)(8), the adjustment is properly reduced seven days in connection with the supplemental reply filed June 17, 2009. The reduction commenced June 11, 2009, the day after the date that the reply to the final Office action dated March 13, 2009 was filed, and ended June 17, 2009, the date that the supplemental reply (IDS) was filed.


Accordingly, at the time of allowance, the application is entitled to an adjustment of 872 days (adjustments totalling 1,148 days less reductions totalling 276 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

  
Alesia M. Brown  
Petitions Attorney  
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

# ATTACHMENT F

09/878,245	AN ELECTRONIC PREDICATION SYSTEM FOR ASSESSING A SUITABILITY OF JOB APPLICANTS FOR AN EMPLOYER	12-07- 2009::15:14:24
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### Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/878,245

Filing or 371(c) Date:	06-12-2001	USPTO Delay (PTO) Delay (days):	1455
Issue Date of Patent:	10-20-2009	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	199
Post-Issue Petitions (days):	+0	Total PTA (days):	1065
USPTO Adjustment(days):	-191	Explanation Of Calculations	

### Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
09-30-2009	PTA 36 Months	193	
10-20-2009	Patent Issue Date Used in PTA Calculation		
09-11-2009	Dispatch to FDC	↑	
09-07-2009	TC Return to Pubs	↑	
09-08-2009	Mail-Record a Petition Decision of Granted for Patent Term Adjustment after Allowance	↑	
09-08-2009	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance	↑	
09-08-2009	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance	↑	
09-07-2009	Adjustment of PTA Calculation by PTO		70
09-07-2009	Adjustment of PTA Calculation by PTO		
09-07-2009	Adjustment of PTA Calculation by PTO		7
09-07-2009	Adjustment of PTA Calculation by PTO		
09-07-2009	Adjustment of PTA Calculation by PTO		120
09-07-2009	Adjustment of PTA Calculation by PTO		
09-07-2009	Adjustment of PTA Calculation by PTO	6	
09-07-2009	Adjustment of PTA Calculation by PTO		
08-06-2009	Application Is Considered Ready for Issue	↑	
08-04-2009	TC Return to Pubs	↑	
07-16-2009	Petition Entered	↑	
07-16-2009	Issue Fee Payment Verified	↑	
07-16-2009	Issue Fee Payment Received	↑	
06-25-2009	Mail Notice of Allowance	↑	
06-23-2009	Document Verification	↑	
06-23-2009	Notice of Allowance Data Verification Completed	↑	
06-22-2009	Examiner's Amendment Communication	↑	
06-17-2009	Information Disclosure Statement considered	↑	
06-17-2009	Information Disclosure Statement (IDS) Filed	↑	
06-13-2009	Correspondence Address Change	↑	
06-10-2009	Letter Requesting Interview with Examiner	↑	
06-12-2009	Date Forwarded to Examiner	↑	

06-12-2009	Date Forwarded to Examiner	↑	
06-10-2009	Request for Continued Examination (RCE)	↑	
06-12-2009	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	↑	
06-10-2009	Workflow - Request for RCE - Begin	↑	
03-13-2009	Mail Final Rejection (PTOL - 326)	↑	
03-13-2009	Final Rejection	↑	
01-07-2009	Date Forwarded to Examiner	↑	
12-22-2008	Response after Non-Final Action		32
12-22-2008	Request for Extension of Time - Granted	↑	
08-20-2008	Mail Non-Final Rejection	↑	
08-18-2008	Non-Final Rejection		
06-13-2008	Date Forwarded to Examiner		
06-13-2008	Date Forwarded to Examiner		
06-06-2008	Request for Continued Examination (RCE)		45
06-13-2008	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	↑	
06-06-2008	Request for Extension of Time - Granted	↑	
06-06-2008	Workflow - Request for RCE - Begin	↑	
04-30-2008	Mail Advisory Action (PTOL - 303)	↑	
04-28-2008	Advisory Action (PTOL-303)	↑	
04-17-2008	Date Forwarded to Examiner	↑	
04-02-2008	Amendment after Final Rejection	↑	
02-28-2008	Mail Examiner Interview Summary (PTOL - 413)	↑	
02-19-2008	Examiner Interview Summary Record (PTOL - 413)	↑	
01-22-2008	Mail Final Rejection (PTOL - 326)	↑	
01-18-2008	Final Rejection		
11-23-2007	Date Forwarded to Examiner		
11-19-2007	Response after Non-Final Action		62
11-19-2007	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑	
11-19-2007	Request for Extension of Time - Granted	↑	
04-10-2003	Information Disclosure Statement considered	↑	
04-10-2003	Information Disclosure Statement (IDS) Filed	↑	
06-18-2007	Mail Non-Final Rejection		120
06-07-2007	Non-Final Rejection	↑	
05-18-2005	Information Disclosure Statement considered	↑	
04-09-2007	Appeal Brief Review Complete	↑	
04-09-2007	Date Forwarded to Examiner	↑	
02-12-2007	Appeal Brief Filed	↑	
03-03-2007	Case Docketed to Examiner in GAU	↑	
01-12-2007	Notice -- Defective Appeal Brief	↑	
10-25-2006	Appeal Brief Review Complete	↑	



10-25-2006	Date Forwarded to Examiner	↑	
10-18-2006	Defective / Incomplete Appeal Brief Filed	↑	
10-18-2006	Appeal Brief Filed	↑	
08-18-2006	Notice of Appeal Filed		29
08-18-2006	Request for Extension of Time - Granted	↑	
07-19-2006	Mail Advisory Action (PTOL - 303)	↑	
07-17-2006	Advisory Action (PTOL-303)	↑	
05-18-2006	Information Disclosure Statement considered	↑	
07-12-2006	Date Forwarded to Examiner	↑	
07-06-2006	Amendment after Final Rejection	↑	
05-05-2005	Preliminary Amendment	↑	
05-18-2005	Miscellaneous Incoming Letter	↑	
05-18-2005	Information Disclosure Statement (IDS) Filed	↑	
05-18-2005	Information Disclosure Statement (IDS) Filed	↑	
06-08-2006	IFW TSS Processing by Tech Center Complete	↑	
05-18-2006	Reference capture on IDS	↑	
05-18-2006	Information Disclosure Statement (IDS) Filed	↑	
05-18-2006	Information Disclosure Statement (IDS) Filed	↑	
04-20-2006	Mail Final Rejection (PTOL - 326)	↑	
04-17-2006	Final Rejection		
04-07-2006	Information Disclosure Statement considered		
04-07-2006	Information Disclosure Statement (IDS) Filed		
04-07-2006	Information Disclosure Statement (IDS) Filed		
01-27-2006	New or Additional Drawing Filed		
02-03-2006	Date Forwarded to Examiner		
01-27-2006	Response after Non-Final Action		31
01-27-2006	Request for Extension of Time - Granted	↑	
09-27-2005	Mail Non-Final Rejection	1142	
09-26-2005	Non-Final Rejection	↑	
09-19-2005	Miscellaneous Incoming Letter	↑	
06-06-2005	Case Docketed to Examiner in GAU	↑	
06-01-2005	Case Docketed to Examiner in GAU	↑	
05-26-2005	Correspondence Address Change	↑	
05-05-2005	Miscellaneous Incoming Letter	↑	
05-05-2005	Preliminary Amendment	↑	
04-28-2005	Correspondence Address Change	↑	
04-28-2005	Correspondence Address Change	↑	
09-03-2004	Reference capture on IDS	↑	
09-03-2004	Information Disclosure Statement (IDS) Filed	↑	
09-03-2004	Information Disclosure Statement (IDS) Filed	↑	
09-03-2004	Preliminary Amendment	↑	

04-04-2005	Case Docketed to Examiner in GAU	↑
04-01-2005	File Marked Found	↑
03-03-2005	Correspondence Address Change	↑
03-04-2005	Change in Power of Attorney (May Include Associate POA)	↑
01-04-2005	File Marked Lost	↑
12-13-2004	Case Docketed to Examiner in GAU	↑
12-13-2004	Case Docketed to Examiner in GAU	↑
09-09-2004	Case Docketed to Examiner in GAU	↑
09-03-2004	Workflow incoming amendment IFW	↑
05-17-2004	Case Docketed to Examiner in GAU	↑
05-04-2004	Correspondence Address Change	↑
01-26-2004	Information Disclosure Statement (IDS) Filed	↑
01-26-2004	Information Disclosure Statement (IDS) Filed	↑
02-04-2004	Information Disclosure Statement (IDS) Filed	↑
02-04-2004	Information Disclosure Statement (IDS) Filed	↑
06-12-2003	Information Disclosure Statement (IDS) Filed	↑
06-12-2003	Information Disclosure Statement (IDS) Filed	↑
06-24-2003	Case Docketed to Examiner in GAU	↑
02-14-2003	Correspondence Address Change	↑
12-09-2002	Correspondence Address Change	↑
04-23-2002	Case Docketed to Examiner in GAU	↑
11-15-2001	Case Docketed to Examiner in GAU	↑
11-06-2001	Application Dispatched from OIPE	↑
11-01-2001	Application Is Now Complete	↑
08-08-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑
08-07-2001	Correspondence Address Change	↑
06-21-2001	IFW Scan & PACR Auto Security Review	↑
06-12-2001	Initial Exam Team nn	↑

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